

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20175 of 2022

Arising Out of PS. Case No.-137 Year-2021 Thana- LAUKAHI District- Madhubani

1. Md. Amir Son Of Md. Ishlam R/O Village- Bangama, P.S.- Narhaiya O.P. (Laukahi), District- Madhubani.
2. Md. Kalam son of Md. Ishlam r/o village- Bangama, p.s.- Narhaiya o.p. (Laukahi), district- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Advocate.
For the Informant	:	Mr. Arvind Kumar, Advocate.
For the Opposite Party/s	:	Mr. APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 18-10-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Gagan Deo Yadav, learned counsel for the petitioner and Mr. Arvind Kumar, learned counsel for the informant as well as learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Laukahi (Narhaiya OP) P.S. Case No. 137 of 2021, registered for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 457, 427, 307, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act. Later on, Section 302 of the Indian Penal Code was added.



The prosecution case is based on the fardbayan of the informant alleging therein that on 23.06.2021 at about 01:30 am, all the accused persons including the petitioners barged into the house of the informant and made indiscriminate firing. It is further alleged that accused Chhotu Yadav, Amar Qlam, Md. Haidar, after breaking the door, entered into his room and fired upon the informant, who sustained two fire arms injuries on his leg, in the meantime, when family members of the informant came to rescue, all the accused persons including the petitioner, having country made pistol again started indiscriminate firing, due to which, other family members have sustained injuries. It is also alleged that accused persons assaulted the father of the informant by means of Iron Rod.

Learned counsel appearing on behalf of the petitioners submits that from the FIR, it would be evident that no specific allegation has been attributed against these two petitioners rather general and omnibus nature of allegation has been alleged against all the eight named accused and 7-8 unknown persons. He further submits that the FIR has been instituted in the backdrop of land dispute, which has also been corroborated by the statement of the witnesses. He next submits that during the course of investigation, statement of the wife of the informant,



mother, husband of the deceased and other relatives were recorded and they have made specific allegation of firing against co-accused Chhotu Yadav and Md. Haidar. He next submits that during the course of investigation, in paragraph 54, it has come that there is a land dispute between the parties and proceedings under Section 144 of Cr.P.C. is going on. He last submitted that even in the re-statement of the informant no specific allegation has been leveled against the petitioners and moreover, the petitioners having fair antecedent, are in custody since 08.07.2021.

On the other hand learned counsel for the informant vehemently opposes the bail application and submits that the informant and other witnesses have stated that the petitioners along with other co-accused persons have fired upon the informant and his family members, due to which four persons have sustained fire arms injuries and during the course of treatment one Amina Khatoon died due to fire arm injuries. He further submits that all the witnesses have categorically stated that all the accused persons including the petitioners in furtherance of common intention, entered into the house of the informant and committed such crime and their presence have never being denied by any of the witnesses.



Learned APP for the State has also opposes the bail application and submitted that specific allegation has been leveled against all the accused persons including the petitioners and the prosecution case is corroborated by the postmortem and the other injuries report.

Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation against all the FIR named accused persons, who actively participated in causing the death of the Amina Khatoon and injuries to two other persons, this court is not persuaded to enlarge the petitioners on bail for present.

However, the petitioners would be at liberty to renew his prayer for bail after farming of charges.

Accordingly, the present application stands dismissed for present.

(Harish Kumar, J)

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